IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

OP.No. 13079 of 1999(F)

PETITIONER:

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1. THE COCHIN REFINERIES EMPLOYEES ASSOCIATION RE. BY ITS GENERAL SECRETARY- SRI. P.N. SURENDRAN NAIR.

2. S.PANDITHURAI, BADGE NO.3138, STENO CLERK, PROJECT DEPARTMENT, COCHIN REFINERIES LTD., AMBALAMUGHAL.

BY ADV. SRI.RAJAKRISHNAN. K

RESPONDENTS:

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1. THE COCHIN REFINERIES LTD., REP. BY ITS CIEF MANAGING DIRECTOR, AMBALAMUGAL.

2. THE GENERAL MANAGER, H.R.D. COCHIN REFINERIES LTD., AMBALAMUGHAL

3. THE UNION OF INDIA REP. BY ITS SECRETARY, MINISTRY OF PETROLEUM AND NATURAL GAS, SHASTRY BHAVAN, NEW DELHI 110 001

4. BABU ARJUNAN, BADGE NO.3331, STENO CLERK, COCHIN REFINERIES LTD., AMBALAMUGAL

5. C.P. JAYARAMAN, BADGE NO.3455, STENO CLERK, COCHIN REFINERIES LTD., AMBALAMUGAL

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR
SRI.A.SUDHI VASUDEVAN, ADDL.CGSC
SRI.AKJ.NAMBIAR
SRI.N.NAGARESH
SRI.JOHN VARGHESE, SCGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 13079 of 1999

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF COMMUNITY CERTIFICATE ISSUED BY THE TAHSILDAR, PERIYAKULAM IN FAVOUR OF THE 2ND PETITIONER

EXT.P2- TRUE COPY OF SETTLEMENT ARRIVED BETWEEN THE MANAGEMENT AND THE REPRESENTATIVE OF THE RECOGNISED TRADE UNION

EXT.P3- TRUE COPY of the VACANCY NOTIFICATION PUBLISHED BY THE 2nd RESPONDENT

EXT.P4- TRUE COPY OF NOTICE DATED 11.5.99 BY THE 2ND RESPONDENT

EXT.P5- TRUE COPY OF NOTICE DATED 27.5.99 ISSUED BY DY. GENERAL MANAGER (P& IR) OF THE RESPONDENT COMPANY

(TRUE COPY)

P.A TO JUDGE

S.SIRI JAGAN, J

O.P.13079/1999

Dated this the 2nd day of November, 2007

JUDGMENT

The petitioners are a union of employees of the Cochin Refineries Ltd., and an employee of that company. The second petitioner is a scheduled caste candidate who aspired for promotion to the post of Secretary in the Computers & Automation Department of the Cochin Refineries Ltd., in the year 1999, as per Ext.P2 promotion policy adopted by the company. By Ext.P3, applications were invited. Petitioner applied. A selection committee assessed the relative merits of 6 persons who applied, out of whom R4 and R5 were selected and appointed. The said selection is challenged by the petitioners on several grounds. First is that respondents 4 and 5 did not have the prescribed experience as per Ext.P2. Second is that selection committee was not properly constituted. Third is that one of the vacancies is a vacancy reserved for scheduled castes and scheduled tribes which has been illegally deserved by the respondents and a general category candidate has been appointed to that post.

2. The first contention is that as per Ext.P2 promotion policy for the post of Secretary, minimum five years experience as stenographer with knowledge of office routine is mandatory. The petitioners submit that going by Ext.R1(c) produced by the respondents 1 to 3 themselves, respondents 4 and 6 joined as stenographers only on 3.4.1995 and 4.10.1995 and therefore, they did not have the prescribed experience of five years.

3. The second contention is that as is clear from Ext.R1(c) itself, the selection committee comprised of only two persons whereas as per Ext.P2, the selection committee should comprise of three persons prescribed therein. The last contention is that the post reserved for scheduled caste even if de-reserved, should be carried forward for three years which has not been done in this case.

4. The reply of respondents 1 and 2 in this respect is as follows. In respect of experience of respondents 4

and 5, going by R1(c) they already had four years experience. In Ext.P2, it is not stated that minimum five years experience as stenographer should be in the company itself and it can be in other establishments as well. They point out that going by Ext.P2 itself for being appointed as stenographers themselves, two years experience as stenographer with knowledge in office routine is mandatory. Since respondents 4 and 5 were appoionted as stenographers on being satisfied that they had two years experience as stenographer, adding to that the experience they have put in as stenographers in the company itself, they had six years' experience which would be sufficient as per Ext.P2. Regarding the second contention, respondents 1 and 2 would submit that simply because in Ext.R1(c) only two selection committee members had signed, it does not mean that selection committee consists of only those two. He would submit that selection committee actually consisted of three officers as prescribed in Ext.P2 and only two of them signed the results in the written test to authenticate the same. Regarding the third contention, the submission is that even for reserved posts,

candidates belonging to the reserved community should satisfy the minimum standards prescribed for selection. According to them as is clear from Ext.R1(c), the second petitioner had committed 59 mistake out of 509 words in the shorthand test, which is far too much for a stenographer and if such a person is appointed that would tell upon the efficiency of the Department itself. That is why the second petitioner has not been selected in the contention.

5. I have considered the rival contentions. It is now admitted before me that in 2002 the second petitioner was actually promoted and he is now continuing as Secretary. That being so, it is clear that the reserved post has been carried forward to the next selection and therefore, it cannot be said that the procedure adopted by respondents 1 and 2 in the matter of dereserving and carrying forward the said vacancy is in any way invalid. Regarding the first contention, I am satisfied that the experience as stenographer added to the experience earlier obtained before being appointed as stenographer, would be sufficient minimum experience

for respondents 4 and 5 especially since Ext.P2 does not say that the minimum five years experience should be in the company itself. Regarding the second contention also I find considerable merit in the contention of respondents 1 and 2 that simply because only two members of the selection committee signed the results of the written test that would not automatically lead to the conclusion that the selection was conducted by only two persons. In fact the second petitioner has not placed any concrete material before me to show that the selection committee consisted of only two persons. In the above circumstances, I do not find any merit in the writ petition and accordingly the same is dismissed.

S.SIRI JAGAN
Judge

mrcs